

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JAMES ANDRADE CARDWELL,
Petitioner,
v.
RICHARD J. KIRKLAND,
Respondent.

Case No. SACV 06-349 CJC(JC)
(PROPOSED)
**ORDER ADOPTING FINDINGS,
CONCLUSIONS, AND
RECOMMENDATIONS OF
UNITED STATES MAGISTRATE
JUDGE**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition for Writ of Habeas Corpus by a Person in State Custody (the “Petition”), all of the records herein, the attached Report and Recommendation of United States Magistrate Judge (“Report and Recommendation”), and petitioner’s objections to the Report and Recommendation (“Objections”). The Court has further made a de novo determination of those portions of the Report and Recommendation to which objection is made. The Court concurs with and adopts the findings, conclusions, and recommendations of the United States Magistrate Judge and overrules the Objections with the following non-material exceptions: (1) the citations to RT 200 on page 4, lines 2 and 3 are deleted; and (2) the citation to Moses v. Payne, 543 F.3d 1090, 1098 (9th Cir. 2008) on page 12, line 13, is replaced with Moses v. Payne, ___ F.3d ___, 2009 WL 213070 at *15 (9th Cir. Jan. 30, 2009).

1 IT IS ORDERED that Judgment be entered denying the Petition and
2 dismissing this action with prejudice.

3 IT IS FURTHER ORDERED that the Clerk serve copies of this Order, the
4 United States Magistrate Judge's Report and Recommendation, and the Judgment
5 herein on counsel for petitioner and respondent.

6 LET JUDGMENT BE ENTERED ACCORDINGLY.

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8 DATED: March 2, 2009

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11 HONORABLE CORMAC J. CARNEY
12 UNITED STATES DISTRICT JUDGE

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